

Deep Creek

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>Kay D & Tracy Parrish</p> <p>RESPONDENT</p>	<p>MEASURING DEVICE NOTICE</p> <p>SEAA No. 1293 DISTRIBUTION ACCOUNT: 100613 WATER RIGHTS: 43-717, a13301 43-771</p>
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I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

- (1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:
 - (a) each location where water is diverted from a source; and*
 - (b) any other location required by the state engineer.**
- (2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*
- (3) The state engineer shall approve the design of:
 - (a) the measuring device; and*
 - (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...**
- (6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:
 - (a) forbid the use of water until the user complies with the state engineer's requirement; and*
 - (b) commence enforcement proceedings authorized by Section 73-2-25.**

II. STATEMENT OF FACTS

1. The Respondent owns and uses a diversion structure and measuring device known as the Kay Parrish Diversion on the Deep Creek Distribution System operated within the Deep Creek Distribution System under the direction of the State Engineer.

SCANNED

2. The measuring device is not properly installed and is missing a staff gage.
3. Nearly half of the control handle wheel on the headgate structure is missing. This poses operational risks and inefficiencies.
4. The headgate diversion control structure is located at or near the point North 1120 feet and West 1200 feet from the E4 corner of section 17, township 1N range 2E, US b&m. The Parshall flume is located at or near the point North 1070 feet and West 1200 feet from the E4 corner of section 17, township 1N range 2E, US b&m.
5. The control structures must be maintained in good working condition in order for the system to operate efficiently.

III. ACTIONS REQUIRED

- **Requirement – The Respondent is required to maintain the headgate and measuring device in good condition. This requirement is explained in detail as follows:**
 1. The headgate must have a fully functional control handle
 2. The headgate must have a lock with key access to the commissioner
 3. The Parshall flume must be level and installed at the proper level
 4. The Parshall flume must have a staff gage mounted in the proper location to enable an accurate flow measurement
 5. The Parshall flume should be installed such that water does not pass under or around the flume
 6. The maintenance should be properly completed before May 1, 2009.

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation of an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005), including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation.”

V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Robert Leake
Regional Engineer
Vernal Office
Utah Division of Water Rights
(435) 781-5327

Ben Anderson
Water Rights Distribution Engineer
Utah Division of Water Rights
(801) 538-7469
1594 W North Temple Ste 220
P.O. Box 166300
Salt Lake City, UT 84104-6300

Dated this 15th day of January, 2009

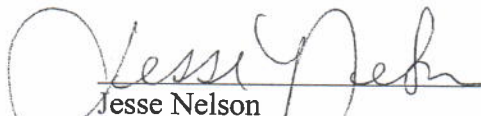


Ben L. Anderson, P.E.
Water Rights Distribution Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 15th day of January, 2009, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Kay D & Tracy Parrish
RT 2 BOX 2294
BALLARD, UT 84066



Jesse Nelson
Division of Water Rights
Field Services Secretary